

1 EDMUND G. BROWN JR., Attorney General
of the State of California

2 LINDA K. SCHNEIDER

Supervising Deputy Attorney General

3 LORETTA A. WEST, State Bar No. 149294

Deputy Attorney General

4 110 West "A" Street, Suite 1100

San Diego, CA 92101

5 P.O. Box 85266

6 San Diego, CA 92186-5266

Telephone: (619) 645-2107

7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

ANDREA RESNICK;

15 a.k.a. GILLERAN SANCHEZ

44635 Kornell Street

16 Temecula, CA 92492

17 Registered Nurse No. RN 477423

18 Respondent.

Case No. **2009-62**

A C C U S A T I O N

21 Complainant alleges:

22 PARTIES

23 1. Ruth Ann Terry, M.P.H, R.N. (Complainant) brings this Accusation solely
24 in her official capacity as the Executive Officer of the Board of Registered Nursing.

25 2. On or about March 31, 1992, the Board of Registered Nursing issued
26 Registered Nurse License No. RN 477423 to Andrea Resnick; a.k.a. Gilleran Sanchez

27 (Respondent). The Registered Nurse license was in full force and effect at all times relevant to
28 the charges brought herein and will expire on June 30, 2009, unless renewed.

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

2
3
4

5
6
7

8

9

1

3

4

5

67

901

3
45
7

3

1 7. Section 490 of the Code states in pertinent part:

2 A board may suspend or revoke a license on the ground that the licensee
3 has been convicted of a crime, if the crime is substantially related to the
4 qualifications, functions, or duties of the business or profession for which the
5 license was issued. A conviction within the meaning of this section means a plea
6 or verdict of guilty or a conviction following a plea of nolo contendere. Any
7 action which a board is permitted to take following the establishment of a
8 conviction may be taken when the time for appeal has elapsed, or the judgment of
9 conviction has been affirmed on appeal, or when an order granting probation is
10 made suspending the imposition of sentence, irrespective of a subsequent order
11 under the provisions of Section 1203.4 of the Penal Code. . . .

12 8. California Code of Regulations, title 16 ("the Regulations"), section 1444,
13 subsection (a), states:

14 A conviction or act shall be considered to be substantially related to the
15 qualifications, functions or duties of a registered nurse if to a substantial degree it
16 evidences the present or potential unfitness of a registered nurse to practice in a
17 manner consistent with the public health, safety, or welfare. Such convictions or
18 acts shall include but not be limited to the following:

19 (a) Assaultive or abusive conduct including, but not limited to, those
20 violations listed in subdivision (d) of Penal Code Section 11160.

21 . . .
22 9. Section 482, subsection (b), of the Code states:

23 Each board under the provisions of this code shall develop criteria to
24 evaluate the rehabilitation of a person when:

25 (b) Considering suspension or revocation of a license under Section 490.

26 Each board shall take into account all competent evidence of rehabilitation
27 furnished the applicant or licensee.

28 13. Section 1445 of the Regulations states:

 (a) When considering the denial of a license under Section 480 of
 the code, the board, in evaluating the rehabilitation of the applicant and his/her
 present eligibility for a license will consider the following criteria:

 (1) The nature and severity of the act(s) or crime(s) under
 consideration as grounds for denial.

 (2) Evidence of any act(s) committed subsequent to the act(s)
 or crime(s) under consideration as grounds for denial which also
 could be considered as grounds for denial under Section 480 of the code.

 (3) The time that has elapsed since commission of the act(s) or
 crime(s) referred to in subdivision (1) or (2).

///

1 (4) The extent to which the applicant has complied with any terms
2 of parole, probation, restitution, or any other sanctions lawfully imposed
against the applicant.

3 (5) Evidence, if any, of rehabilitation submitted by the applicant.

4 (b) When considering the suspension or revocation of a license on
5 the grounds that a registered nurse has been convicted of a crime, the board, in
6 evaluating the rehabilitation of such person and his/her eligibility for a license will
consider the following criteria:

7 (1) Nature and severity of the act(s) or offense(s).

8 (2) Total criminal record.

9 (3) The time that has elapsed since commission of the act(s)
or offense(s).

10 (4) Whether the licensee has complied with any terms of parole,
11 probation, restitution or any other sanctions lawfully imposed against
the licensee.

12 (5) If applicable, evidence of expungement proceedings
13 pursuant to Section 1203.4 of the Penal Code.

14 (6) Evidence, if any, of rehabilitation submitted by the licensee.

15 10. Section 493 of the Code states:

16 Notwithstanding any other provision of law, in a proceeding conducted by
17 a board within the department pursuant to law to deny an application for a license
18 or to suspend or revoke a license or otherwise take disciplinary action against a
19 person who holds a license, upon the ground that the applicant or the licensee has
20 been convicted of a crime substantially related to the qualifications, functions, and
21 duties of the licensee in question, the record of conviction of the crime shall be
conclusive evidence of the fact that the conviction occurred, but only of that fact,
and the board may inquire into the circumstances surrounding the commission of
the crime in order to fix the degree of discipline or to determine if the conviction
is substantially related to the qualifications, functions, and duties of the licensee in
question.

22

23 COST RECOVERY

24 11. Section 125.3 of the Code provides, in pertinent part, that the Board may
25 request the administrative law judge to direct a licentiate found to have committed a violation or
26 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
27 and enforcement of the case.

28 ///

FACTS

2007 Arrest & Conviction for Immoral Acts Before Children

12. On or about September 21, 2007, in Riverside Superior Court Case No. SWM064618 entitled *People v. Andrea Relend Gilleran a.k.a. Andrea Ralen*, Respondent was convicted, on her plea of guilty, of violating Penal Code section 243, subsection (g) (Immoral Acts Before Children).

13. On or about September 21, 2007, Respondent was sentenced to the following: sixty (60) days in the custody of the Riverside County Sheriff to be served through participation in the Riverside Labor Camp Alternative Program; complete fifty-two (52) weeks of instruction from the Riverside Child Batterer's Program; complete twenty (20) hours of Anger Management education; attend thirty-two (32) Alcohol Anonymous meetings, do not have any negative contact with her children; obey all laws; submit to warrantless searches; pay fines, and thirty-six (36) months of summary probation scheduled for completion on September 20, 2010. The facts and circumstances underlying the conviction are described below.

14. The facts and circumstances underlying Respondent's September 2007 conviction are as follows:

(a) On or about June 8, 2007, Riverside County Sheriffs went to Respondent's residence in response to an anonymous request for law enforcement to check on the safety of Respondent's children because, in part, they had not gone to school for the past few days. Respondent's five year old son, A.R., answered the Sheriffs' knock on Respondent's residence door, and immediately stated, "Please don't under arrest my mommy."

(b) Respondent soon stumbled out of her bedroom and appeared to be under the influence of alcohol and/or drugs in that she swayed from side to side as she attempted to stand still, her speech was extremely slurred, and her eyes were watery and bloodshot. Respondent admitted that she had self-administered "some pills for her nerves." Respondent instantly became combative and uncooperative with the Sheriffs in that she used curse words and made statements that terrified her children into panic and tears e.g., "they are going to take you to kid jail."

1 (c) Sheriffs stated to Respondent that she was not able to care for her children due
2 to her being under the influence of drugs and/or alcohol and asked whether anybody could come
3 and care for her children. The Sheriffs made attempts to arrange for several different neighbors
4 or Respondent's brother to come care for Respondent's children. Ultimately, Child Protective
5 Services took custody of the children. Respondent was arrested for "Child Abuse/
6 Endangerment" in violation of Penal Code section 273 subsections (a) and (b), and "Immoral
7 Acts Before Children" in violation of Penal Code section 273, subsection (g). When Respondent
8 was taken to jail, she was unable or unwilling to control her conduct during the booking process
9 in that she was belligerent and did not follow the correctional intake officer's commands to the
10 extent that interruption of the booking process became necessary while Respondent was placed
11 into a holding cell. In the holding cell, Respondent continued her belligerent conduct and
12 engaged in conduct risking her personal health and safety
13 e.g., she attempted to do handstands on the sink. Several correctional officers were needed to
14 restrain Respondent in order to protect her own safety.

15 (d) On or about June 8, 2007, Riverside County Sheriffs also interviewed
16 Respondent's neighbor who reported that earlier in the day he overheard Respondent yelling and
17 cursing at her young children in their backyard. The neighbor looked over the fence and stated to
18 Respondent that it is not appropriate for her to speak to children in such an abusive manner.
19 Several hours later, Respondent called the neighbor's place of employment and made a false
20 complaint to his supervisor about his work performance.

21 **2004 Arrest and 2005 Conviction for Driving Under the influence of Alcohol**

22 15. On or about January 18, 2005, in California Superior Court, San
23 Bernadino County, Victorville District, in Case No. TVI054356, entitled *People v. Andrea*
24 *Ralend Gilleran*, Respondent was convicted, on her plea of *no-lo-contendere*, of violating
25 Vehicle Code section 23152, subsection (a) (Driving Under the Influence of Alcohol, with One
26 Prior Conviction for Same), a misdemeanor. The facts and circumstances underlying the
27 conviction are described below.

28 ///

1 16. On or about January 18, 2005, Respondent was sentenced to the following:
2 thirty-six (36) months summary probation; forty-five (45) days in the custody of the San
3 Bernadino County Jail to be served through participation in the Riverside Labor Camp
4 Alternative Program; report to the Glen Helen Rehabilitation Center within 30 days; complete
5 state approved multiple-offender alcohol program; restricted driving privileges; and, fines.

6 17. On or about February 17, 2005, Respondent's sentence was modified, at
7 her request, to allow Respondent to serve her sentenced jail time and complete her sentenced
8 alcohol program in the State of Nevada during March 25, 2005 through October 17, 2005. On
9 October 17, 2005, a bench warrant was issued for Respondent's arrest when she failed to appear
10 at her probation review hearing. On November 14, 2005, Respondent appeared for her probation
11 review hearing and the court deemed Respondent had completed, in Nevada, the jail time and
12 alcohol program terms of her probation.

13 18. The facts and circumstances underlying Respondent's January 2005
14 conviction are that on or about September 18, 2004, a California Highway Patrol (CHP) officer
15 received an advisement of a reckless driver traveling southbound on Interstate 15 (I-15). Soon
16 thereafter, the officer witnessed Respondent driving her car on I-15 at approximately sixty to
17 seventy (60 - 70) miles per hour while the right rear tire of her car was completely off the rim.
18 The officer turned on his lights and intermittent siren in an effort to make an enforcement stop of
19 Respondent's car. Respondent did not immediately pull her car over to the shoulder of the
20 highway. Instead, she exited the highway and turned right at the bottom of the off-ramp.
21 Respondent then erratically made a left turn into a private driveway and up to a metal chain that
22 was hanging across the driveway. Respondent continued to accelerate against the chain, while
23 her car partially blocked passing traffic in the adjacent street. The officer observed Respondent's
24 slurred speech and smelled the strong odor of alcohol coming from inside her car. Respondent
25 failed the field sobriety test administered by the officer. Respondent was then arrested her for
26 driving under the influence of alcohol.

27 ///

28 ///

1 **1999 Conviction for Driving Under the influence of Alcohol**

2 19. On or about February 19, 1999, in California Superior Court, Orange
3 County, Laguna Niguel District, in Case No. SLG985, entitled *People v. Andrea Ralend*
4 *Gilleran*, Respondent was convicted of violating Vehicle Code section 23152, subsection (a)
5 (Driving Under the Influence of Alcohol). The facts and circumstances underlying the
6 conviction are unknown at this time.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(9/21/07 Conviction of Immoral Acts Before Children on 6/8/07)**

9 20. Respondent is subject to disciplinary action under Business and
10 Professions Code sections 490, and 2761 (unprofessional conduct) as defined in subsections (a)
11 and (f), in that she was convicted of a criminally immoral acts before children which crime is
12 substantially related to the qualifications, functions, or duties of a registered nurse, pursuant to
13 California Code of Regulations, title 16, section 1444, as alleged in detail above at paragraphs 12
14 through 14, which are incorporated herein by reference.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct: Child Endangerment and Child Abuse on 6/08/07)**

17 21. Respondent is subject to disciplinary action under Business and
18 Professions Code section 2761 subsection (a) (unprofessional conduct) in that she placed her two
19 young children in a situation where their person or health may be endangered and she
20 unjustifiably caused mental suffering to her two children, as alleged in detail above at paragraphs
21 12 through 14, which are incorporated herein by reference.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(1/18/05 & 2/19/99 Convictions for Driving Under influence of Alcohol on 9/19/2004 & 1999)**

24 22. Respondent is subject to disciplinary action under Business and
25 Professions Code sections 490, and 2761 (unprofessional conduct) as defined in subsections (a)
26 and (f), and 2762, subdivision (a), in that she was convicted of driving under the influence of
27 alcohol on two separate occasions, which crimes are substantially related to the qualifications,

28 ///

1 functions, or duties of a registered nurse, as alleged in detail above at paragraphs 15 through 19,
2 which are incorporated herein by this reference.

3
4 **FOURTH CAUSE FOR DENIAL**

5 **(Use of Alcohol to an Extent or in an Manner
6 Dangerous or Injurious to Oneself and Others)**

7 23. Respondent is subject to disciplinary action under Code sections
8 subdivision (a) (3), 2761(a) and 2762(b), in that she used alcohol to an extent and in a manner
9 that was dangerous to herself and others, on or about June 8, 2007, and while her two young
10 children were in her custody and care, in that she was under the influence of alcohol to the extent
11 that she was a danger to her children and unable to care for them, as alleged above in paragraphs
12 12 through 14, which are incorporated herein by this reference. Respondent also used alcohol to
13 an extent and in a manner that was dangerous to herself and others, on September 19, 2004, and
14 in 1999, in that she drove a motor vehicle while she was under the influence of alcohol and her
15 blood alcohol content was .08 or more, as alleged above in paragraphs 15 through 19, which are
16 incorporated herein by this reference.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct
19 Committed for Intemperate Use or Addiction to Alcohol)**

20 24. Respondent is subject to disciplinary action under Code sections 2761 ,
21 subsection (a), and 2762(d) in that she was committed to the custody of the Riverside County
22 Sheriff, San Bernadino County Jail, and a residential alcohol treatment program due to her
23 intemperate use of, or addiction to, alcohol, as alleged above in paragraphs numbered 12 through
24 19, which are incorporated herein by this reference.

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein
27 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

28 1. Revoking or suspending Registered Nurse Number RN 477423, issued to
Andrea Resnick; a.k.a. Gilleran Sanchez.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2. Ordering Andrea Resnick to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 9/23/08.

Ruth Ann Terry

RUTH ANN TERRY, M.P.H, R.N.
Executive Officer
Board of Registered Nursing
State of California
Complainant